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# £INDIA

## @Press coverage of Amnesty International's report: India: Torture, Rape and Deaths in Custody

### A. PRESS REACTION TO AMNESTY INTERNATIONAL'S REPORT AND ITS CAMPAIGN TO HALT TORTURE IN INDIA

On 25 March 1992, Amnesty International released a report: *India: Torture, Rape and Deaths in Custody*. Its publication, marking the start of a worldwide campaign focusing on India's human rights record, stimulated a national debate about the state of human rights protection in India. Much of this public debate has been reflected in the Indian press, which has been critical both of Amnesty International, its campaign for better human rights protection in India, as well as of the Indian Government. However, the overwhelming conclusion has been that the Indian Government can no longer be excused for failing to take substantive and effective action on the nationwide problem of custodial violence in India.

This document presents a selection of the many articles which have appeared in the English language Indian press in the wake of the publication *India: Torture, rape and deaths in custody*. In June, the government started to provide Amnesty International with information about specific allegations of human rights violations listed in the report and, in September, has invited Amnesty International to come to Delhi to discuss its human rights concerns: decisions which Amnesty International has welcomed. This would be the first opportunity for more than twelve years for an Amnesty International delegation to have such discussions with senior government officials. The Indian Government has also proposed to establish a Human Rights Commission and to review the law relating to custodial deaths.

#### The first stage: the press reports the government's reaction

On publication, the press started to report the substance of the Amnesty International report in the context of the government's prompt denial of the human rights violations documented in it.

The Minister of Home Affairs, Mr S.B. Chavan, commented that the report was based on "mere hearsay". Although Amnesty International had documented - in some 100 pages - 415 reports of men and women who had died in police custody, the minister argued that Amnesty International should have given specific instances rather than making "conjectures and general allegations". He maintained that "action was taken" if anybody was found guilty of abuses. A Home Ministry spokesman dismissed the report as "malicious and unfounded", saying that India had a "vigilant press, free judiciary and a vibrant democratic system". India's High Commission in London issued a statement saying that India was "deeply concerned about human rights", but that the Amnesty International report was "glaringly inaccurate" and made "sweeping allegations" without giving the government time to reply. The government asserted that the report failed to highlight the problems posed by armed insurgency in Punjab and Jammu and Kashmir. Amnesty International responded by saying that the report dealt with the pressing problem of torture in the course of policing in everyone of India's 25 states and that the government had reacted to a report that it had not

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written: Amnesty International urged it be given a serious response.

### The second stage: the government's reaction questioned

In the following days, however, the press started to question the government's response. *The Deccan Herald*, [Bangalore] 26 March, observed that the Home Minister's dismissal of "mere hearsay cannot successfully stand the test of a full reading of the report". The *Sunday Observer* [New Delhi] 29 March, called the government's dismissal of Amnesty International's report "totally unacceptable". The *Economic Times*, [New Delhi] 31 March, wrote: "it is not surprising that the government of India has reacted in a predictable manner to Amnesty International's latest report on human rights violations in India - skirting the substantial issues raised in the Amnesty International report and quibbling over trivialities." *The Pioneer* [New Delhi], 25 March, noted that the government maintained that "action" was "taken" but contrasted that with the lack of prosecutions and magisterial enquiries highlighted in the Amnesty International report. *The Statesman's* [Calcutta] 11 April editorial was headlined: "Disturbing Arrogance". While raising some questions about Amnesty International's methodology, the paper was sharply critical of the government's response:

"But the Government's stance that it does not need foreign agencies to deliver `sermons' on human rights, reeks of disturbing arrogance. It is a grim reality that the nation has become desensitized to media reports of police brutality. The lack of any sense of moral outrage is underscored by the fact that victims are more likely to be the poor and the disenfranchised than the middle-class media consumers... The Government has rather zealously boasted of an `in-built mechanism' including the press and the judiciary, `which are sufficient to check any human rights violations'. While it is true that the Press and civil liberties groups have been instrumental in raising public awareness of atrocities, no concerted efforts have been made to clean up the system. Cases languish in courts: police-politician tie-ups are common: landless labourers, poor tribals and other backward caste members in villages are often the victims of police terror. Knee-jerk responses further discredit the Government's professed desire to stop such incidents. Errant police officers are `transferred' and the Press is often denied access to `sensitive' areas on the grounds of `national security'. Unless the Government is genuinely serious about such flagrant wrongs, its carping against international human rights agencies will continue to sound hollow."

An editorial in *India Today*, 30 April, was equally critical:

"His [the Home Minister's] recent statement in Parliament that Amnesty International's denunciation of police torture was merely "hearsay", and without factual basis is a sad testament to the Indian Government's persistent refusal to wake up and respond aggressively to what is indeed one of the most shameful truths about this country. The fact is that police brutality, sometimes of barbaric proportions - rapes in custody, deaths during police remands of suspects, beatings, tortures - have become a way of life... The most conveniently proffered cliché in defence of the Indian state from criticisms made by Amnesty and civil rights groups, is that we are a democracy with self-correcting mechanisms such as a free press and the courts. But obviously these checks and balances are not working...."

*The Times of India*, on the other hand, criticized Amnesty International in its 27 March editorial for drawing too grim a picture so as "to deny that a reasonably efficient judicial system is still in operation in India...". However, *The Times* then went on to stress the "basic usefulness" of the task performed by organizations like Amnesty International acknowledging that: "It is also undeniable that brutal tactics,

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including so-called third degree methods, are still employed by the police on a distressingly large scale, especially against the weaker sections of the community...Considering that the deaths of suspects in police custody take place at regular intervals even in metropolitan towns, it is easy to imagine the fate of those who may be arrested in remote areas." The paper questioned the government's persistent refusal to deny Amnesty International access to the country: "In this context, and considering that New Delhi claims that it has nothing to hide, the time perhaps has come to allow investigative organisations to operate more freely, if only to ensure that they present a more balanced picture".

The press also carried many feature articles investigating the widespread problem of custodial violence addressed in the Amnesty International report and critically questioning official attitudes towards it. *The Independent*, [Bombay] 26 March, wrote: "The real scandal amidst all this is that the Indian government apparently does not even acknowledge the existence of this routine brutality". Anil Dharker wrote in the same paper on 11 April:

"The government's response would be right if the government's job is to put up a facade of legality for the benefit of the world. Then you can hope that if you lie often enough at least some people will begin to see the truth...But if the government saw its job as primarily to protect its citizens, especially its poorest and most vulnerable ones, its response should have been different. Its response should have been one of horror and disbelief. `Can such terrible things happen in our country? We find that impossible to believe. However, since Amnesty International has taken the trouble of filing such a detailed report, we shall have it investigated threadbare'."

#### The third stage: investigation, introspection and analysis

In the weeks after the publication of the report, the press started to investigate and analyze the underlying causes of human rights violations and to review the international dimensions of countries linking aid to human rights. It also began to consider and to ask how the issue of custodial violence in India could be most effectively tackled.

George Verghese, a member of the Press Council of India, wrote in the 11 April issue of the *Indian Express* under the headline: "No scope for any false complacency" that the report "needs to be read carefully and not rejected out of hand as some have been prone to do in a knee-jerk reaction....There should be cause for indignation not because such a report has been published abroad, holding up the mirror to an ugly face of India, but if once again nothing is done about this sorry state of affairs. Nor is there reason for indignation that the country has been held up to shame. For shame lies not in admission of blemishes but in continuing to mask the truth. Self deception does not pay". He concluded by calling for implementation of the recommendations made in the reports of the National Police Commission and the Jail Reforms Commission.

Kuldip Nayar, India's former High Commissioner to London, observed in the *Statesman* of 8 April that the Amnesty International report should "make every Indian sit up and wonder why the society has become so impervious, even cynical. Among the various reasons is the nexus of politicians, police and criminals. Those in power, now and earlier have played havoc with the institutions for personal ends". He drew attention to a recent conference of Directors-General of the Police, who recognized that the incidence torture was increasing.

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Ved Marwah, another noted commentator and ex-police official who served in Jammu and Kashmir, told the press that "Punishing a man is getting very difficult". In *The Hindustan Times*, 19 April, he elaborated: "Custodial death is a matter of greatest shame for any police force. There is no justification at all for even one such incident, what to talk of greater numbers. Any force which cannot prevent this needs to be taken to task. Crime cannot be solved through third degree. Third degree is a hangover of the past which has to be eradicated". He emphasized that "The sadist cop must get exemplary and public punishment. But then the way things have shaped up it is difficult even to punish those who are in the police department. There are so many procedural difficulties that punishing a cop becomes a punishment for the inquiring officer". Ved Marwah, former Jammu and Kashmir Governor Jagmohan and leading civil libertarian Justice V.M. Tarkunde all agreed that the points made in the Amnesty International report could not be ignored and that the issue of custodial violence would have to be tackled on a long-term and wider basis.

Anil Dharker, in the *Independent on Saturday*, 11 April, urged the government to "appoint special teams - not made up of the police, who have a vested interest in the case, not made up of political appointees, who have too many fingers into many juicy pies, but made up of men and women of integrity and open mind. These teams would look into every atrocity to pinpoint the guilty. This would include long years of rigorous imprisonment to be followed by social service involving work for the victims' families."

Human rights and economic stability were linked by Dilip Thakore, former editor of *Business India*, in the 3 April issue of *Newsday* noted that, in making that link, organizations like Amnesty International can play a positive role in that process and asked: "What does human rights abuse have to do with business? Plenty. Persistent violation of human rights inevitably results in the breakdown of law and order and the emergence of a new breed of official criminals and criminals in uniform. As the experience of several Latin American and African nations testifies, this breed can destroy investor and business confidence. Indeed even as the brave new economic liberalisation programme of the Narasimha Rao government unfolds, it is becoming increasingly clear that the gradual breakdown of law and order in many parts of the country could sabotage it." He concluded: "In sum it would be wise to allow Amnesty International researchers into India to investigate human rights violations by the police and paramilitary forces. If as a result some policemen are meted out exemplary punishment, it may tone up the entire law and order machinery."

The report's publication elicited further public debate on the issue of linking aid and a country's human rights performance. which prompted *The Pioneer*, in its 14 April editorial headlined "Amnesty is not God", to call for positive action: "Yet, shrill cries of indignation and outbursts against the West may only prove counterproductive at a juncture when developing countries like India are most vulnerable to western pressures. It is important instead to begin a sincere and dignified dialogue with Western governments and human rights groups without appearing to be overtly defensive." Amnesty International clarified its position - disassociating the organization from any such linkage - in a letter of 21 April.

The press also carried out further investigations into specific instances of human rights violations listed in the Amnesty International report, and some papers urged their readers to raise these with government officials.

The *Sunday Mail*, [New Delhi] 10 May, investigated the 20 cases of custodial death listed in the Tamil Nadu section of the Amnesty International report and found that "Even in the 20 cases listed by Amnesty International, criminal proceedings were launched against the police in only two". On 6 June *The*

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*Illustrated Weekly of India* [Bombay] investigated 24 cases of custodial deaths and judicial and official reactions thereto. The report concluded by suggesting a range of long-term institutional measures required to transform the police. The editor of the *Kannada Weekly* {Karnataka} wrote to Amnesty International to say he had requested readers "to write to the Prime Minister and concerned Home Minister at [the] Central Government at New Delhi. Response has been very good to the Editorial and feature and we have received hundreds of letters from our readers appreciating the humanitarian work your esteemed organisation is doing".

### Press comments critical of Amnesty International

There have been several articles critical of the Amnesty International report; two of them - dated 12 and 27 April - appeared in the *Hindustan Times*, accusing Amnesty International of political bias. These articles - including one which appeared in the 26 April issue of *Sunday* - maintained Amnesty International has an "obsession with the world's largest democracy", and argued Amnesty International should have taken action on issues - such as the Bhopal gas disaster - which are outside the scope of its limited mandate. The text of Amnesty International's response thereto is attached, as is its response to an article in *The Telegraph*, Calcutta, 17 April, suggesting that human rights are culture bound and that universal standards of human rights do not apply to all countries. Amnesty International insisted that human rights are of universal validity, but recognised that the manner of their implementation is closely tied up with the traditions and institutions which exist in any specific country.

Amnesty International also explained that it did not deny the Indian Government adequate time to respond to the detailed information in the report: most of the cases listed in it had already been raised during the last three years with government officials in preceding years and the text of the report was presented to a government representative leading the Indian delegation to the UN Human Rights Commission in Geneva on 20 February, five weeks before its actual publication.

A piece in the 11 September issue of *Frontline* painted Amnesty International as an organisation whose motivations are "anti-India", suggesting that it has a "colonial hangover" and was established to promote western interests in the Cold War period. Amnesty International replied saying its report was "for India but against officials who violate human rights", and that the claim of western bias was untrue and was often made by governments attempting to distract attention from reports on their poor human rights record. Amnesty International referred to the succession of reports the organization had issued on the UK and that it had raised human rights concerns in the USA in a detailed report as long ago as 1965. Amnesty International argued that human rights transcend national boundaries and that if national human rights bodies, however good, were unable to influence their governments to fully observe human rights law, then world opinion had to be mobilized by international bodies, complementing the important efforts made by local groups.

### Press views on the Amnesty International report and violence perpetrated by armed groups

Although Amnesty International's report addresses the day to day custodial violence which occurs throughout India regardless of whether a particular state faces armed opposition, the report has been criticized for not presenting a balanced picture and for not adequately reflecting the difficulties faced by the Indian Government where it faces armed opposition. Some commentators noted that the report does specifically condemn human rights violations committed by armed opposition groups in India as Amnesty International had also done, in considerable detail, in its May 1991 report: *India: Human Rights Violation in the Punjab, use and abuse of the law*. Amnesty International reinforced that position when it issued a statement on 17 June 1992 calling on armed groups in India to stop killings of civilians, including hostages, and observe minimum humanitarian standards.

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The organization believes that the proper priority for non-governmental organizations like Amnesty International must remain to ensure that governments and their agents are fully accountable for their actions and cannot violate the human rights of their citizens with impunity. Governments have adopted and are bound by international human rights standards and are responsible for ensuring that they are respected at all times. Violence by opposition groups, however condemnable, can never justify the abandonment of these fundamental principles. This position was also reflected in several comments made by leading Indian newspapers.

*The Statesman* wrote in its 11 April editorial: "A 'working democracy's' violation of human rights is far more serious than violence perpetrated by terrorists". The *Deccan Herald*, in its 26 March editorial, acknowledging the validity of the government's position, emphasized that every government shoulders unique responsibilities: "The argument of denial of the rights of the silent majority by terrorist and other extra legal groups, advanced by New Delhi at a recent session of the UN Human Rights Commission in Geneva, is very valid but cannot justify the use of extra-legal methods by the Government. A Government, working in a democratic constitutional framework, has to meet far more rigorous standards of conduct than any groups of individuals. For that matter, no genuine human rights body has condoned terrorist or secessionist violence in India or elsewhere. Even the latest Amnesty International report has placed on record its condemnation of the use of extra-legal methods by groups that oppose the Government."

*The Independent* of 26 March re-emphasized the differences between a government and armed groups opposing it: "What is overlooked here is that watchdog organisations like Amnesty International, while deploring terrorist violence, cannot address their outrage to any specific organisation in such cases. Terrorists, moreover, do not go around basing their legitimacy on 'deep concern for human rights' as governments do. Secondly, unlike terrorists, a democratic government like that of India is accountable for its administrative conduct to its citizens, and to the world at large through bodies like the UN".

### Press reporting on the government's decision to set up a Human Rights Commission and to invite Amnesty International to visit New Delhi

On 14 September 1992 the Prime Minister convened a meeting of Chief Ministers which endorsed the government's proposal to establish a Human Rights Commission and the need to deal firmly and expeditiously, through effective and transparent accountability procedures, with custodial crimes; the Prime Minister was reported as saying that nothing could be more revolting and reprehensible than the betrayal of custodial trust. "Even while dealing with terrorist and secessionist elements who are bent on killing innocent citizens with impunity and are indulging in wanton death and destruction, our attempt must be not to use excessive force or take recourse to excessive or illegal means" he was quoted as saying.

A week later, the government invited Amnesty International to send a delegation to New Delhi for government discussions, later clarifying that Amnesty International would not, at least on this occasion, be permitted to investigate alleged human rights violations in the various States. Amnesty International welcomed the opportunity to discuss its outstanding concerns with officials, the government's earlier decision to respond to specific allegations of human rights violations described in its March 1992 report and also welcomed the debate which the Indian Government has now initiated to improve human rights



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protection in the country. The organization urged the government to make sure that any such changes were effective. An editorial in *The Statesman*, 2 October, lamented the fact that government officials had failed to acknowledge the important contribution which Indian civil liberties groups could make to the discussions establishing the proposed Human Rights Commission, concluding:

"Ultimately only a conscious populace and alert indigenous human rights groups can keep the State in check. Amnesty and other international human rights groups can be of invaluable help; they cannot be expected to supplant local initiative and concern".